THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.NO.16653 OF 2007

BETWEEN;

M.Sankara Rao son of Sesha Rao and others

..Petitioners

Vs.

The Executive Engineer, R&B Department and others

..Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.NO.16653 OF 2007

ORAL ORDER

The petitioners claimed to be owners of commercial mulgies bearing

No.5-3-18 to 22 on the main road leading from Yellareddy to Kamareddy. The 2nd respondent by a notice dated.23-06-2007 (impugned herein) informed the petitioners that the road above mentioned i.e., Yella Reddy to Kamareddy is proposed for widening at the point at Yellareddy Grampanchayat at K.M.120/2 to 121/550 and that the addressee is called upon to remove the specified unauthorized constructions. The petitioners assert to be the true and lawful owners of the mulgies and that the property belongs to them. They claim that they constructed the mulgies after permission from the Grampanchayat. The construction is stated to have been in the year 1978 and that the permission has also been renewed on subsequent occasions during the year 1979 and 1984. The construction is stated to have been completed in 1984. Apprehending unlawful dispossession and unauthorized demolition of the structures the writ petition is filed.

A counter-affidavit is filed by the 1st respondent. The answering respondent denies knowledge of the ownership of the petitioners and asserts that in any event the claim to ownership of the property in question is untenable since all the State High Ways in Andhra Pradesh are of a width of 100" i.e., 50" on either side of the median and that the mulgies of the petitioners are an encroachment into this land belonging to the R&B Department. The answering respondent denies any diminution of its title on account of any certification or permission granted by the 2nd respondent. The answering respondent categorically asserts that the Panchayat Secretary has nothing to do insofar as the land belonging to the R&B Department is concerned and any permission granted by the Panchayat Secretary is *ex facie* illegal, null and void and confers no title on the petitioners.

In the context of the averments in the counter-affidavit there is a clear dispute as to the title to the property in question between the petitioners and the R&B Department. Such dispute is not susceptible to adjudication under Article.226 of the Constitution and is more appropriately considered by the Civil Court of competent jurisdiction.

In the circumstances the writ petition is dismissed. The petitioners are at liberty to pursue appropriate remedies in law. In the circumstances there shall be no order as to costs.

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GODA RAGHURAM,J

11TH OCTOBER,2007
PVSN/TSNR